



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : James R. Kittrell Docket No.: 00-625
Serial No. : 09/684,173 Examiner : T. T. Tran
Filed : October 6, 2000 Art Unit : 1711
For : TWO STAGE PROCESS AND APPARATUS FOR
PHOTOCATALYTIC AND CATALYTIC CONVERSION OF
CONTAMINANTS

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Suite 1201
New Haven, CT 06510-2802

REQUEST FOR RECONSIDERATION

Hon. Commissioner of Patents and Trademarks
United States Patent and Trademark Office
Washington, D.C. 20231

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FEB 04 2003

TC 1700

Dear Sir:

In response to U.S. Patent and Trademark Office Action dated October 9, 2002, having a shortened statutory period for response set to expire January 9, 2003, having been extended for one month so as to expire on February 9, 2003, Applicant hereby requests the Examiner to reconsider his rejection.

The Examiner has withdrawn her previous final rejection.

The Examiner now applies three new pieces of prior art under either 102 or 103. It is respectfully submitted that the Examiner has again, as in the past, misread the references and that her rejection is in error.

U.S. Patent 3,887,455 to Hamner et al. does not anticipate nor render obvious the independent claim presently pending.

There is nothing in the '455 patent to suggest the combination of silica and titania with tungsten oxide and either platinum and/or palladium as claimed in independent claim 7. In addition, the prior art does not suggest the combination of elements as set forth above in the specific weight percentages claimed in independent claim 27. For the Examiner to reach the conclusion she has drawn in her rejection, she must rely on hindsight reconstruction based on Applicant's own disclosure. A specific reading of the '455 patent and particularly column 5 lines 61-65 does not suggest a combination of silica and titania. Accordingly, it is submitted that the Examiner's rejection of the claims based on the '455 patent is in error.

The same is true with respect to the Examiner's rejection of the claims over U.S. Patent 6,086,749. Again, a fair reading of the '749 patent does not suggest a combination of silica and titania. This combination can only be gleaned from hindsight reconstruction based on Applicant's instant disclosure. In this regard column 37 lines 11-20 suggests silica and titania individually (as was the same case with the Hamner et al. reference discussed above). In addition, the '749 patent discloses combinations of inorganic oxides which are suitable; however, the combination of inorganic oxides does not include silica and titania. Accordingly, if the '749 patent teaches

anything it teaches that silica and titania in combination would be unobvious.

Finally, the third reference applied by the Examiner, U.S. Patent 3,640,817, is likewise defective. Again there is nothing in the '817 patent to suggest the particular weight percents of silica, titania, tungsten oxide and platinum and/or palladium as is claimed in the claims. The Examiner's conclusion as stated in paragraph 9 of her office action is nothing more than a hindsight reconstruction. Nothing but Applicant's disclosure suggests the combination of elements in the weight percentages claimed. The Examiner has again applied improper hindsight reconstruction in rejecting the claims over the O'Hara reference.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231

on January 28, 2003

(Date of Deposit)

Rachel Piscitelli

Name and Reg. No. of Attorney

Rachel Piscitelli

Signature

January 28, 2003

Date of Signature

Respectfully submitted,

James R. Kittrell

By

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Date: January 28, 2003